

Message Text

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ACTION L-03

INFO OCT-01 ARA-11 ADP-00 EB-11 FAA-00 IO-12 CIAE-00

DODE-00 PM-09 H-02 INR-10 NSAE-00 NSC-10 PA-03 RSC-01

PRS-01 SS-14 USIA-12 RSR-01 INRE-00 /101 W
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P R 022325 Z APR 73

FM AMEMBASSY PANAMA

TO SECSTATE WASHDC PRIORITY 7079

INFO GOV PANCANAL

USCINCSO

C O N F I D E N T I A L PANAMA 1843

E. O. 11652: GDS

TAGS: ETRN, PQ, PN

SUBJECT: CANAL ZONE: USE OF OLD FRANCE FIELD BY AEROMOR, S. A.

REF: PANAMA 1805

1. EMBASSY HAS BEEN SEEKING, WITHOUT SUCCESS THUS FAR, TO OBTAIN OFFICIAL REQUEST FROM GOP FOR " WAIVER" FROM RESTRICTIONS IMPOSED ON USG UNDER ARTICLE III, PARAGRAPH (5) OF 1936 TREATY FOR " BENEFIT OF PANAMA" IN CASE OF AEROMAR. THIS REASONING IS SPELLED OUT IN PARAGRAPHS (1) AND (2) OF STATE 020201 WHEREIN REFERENCE IS MADE TO THE RUNNESTRAND MEMORANDUM OF AN INTERPRETATION WELL UNDERSTOOD IN CONTRACT LAW.

2. SINCE EMBASSY HAS NOT BEEN ABLE TO OBTAIN SUCH REQUEST FOR " WAI-
VER," WE ARE TRYING TO DO NEXT BEST THING BY INFORMING TOP IN NOTE
(TEXT IN PANAMA 1805) THAT WE INTERPRET DAC SANCTION AND KNOWLEDGE
OF

AEROMAR FLIGHTS TO OLD FRANCE FIELD AS GOP KNOWLEDGE AND APPROVAL
OF THESE FLIGHTS. WE ARE ATTEMPTING TO MAKE IT A MATTER OF
RECORD THAT THE GOP ACTIONS CONSTITUTE A DE FACTO REQUEST FOR
A " WAIVER."

3. THE FACT OF OBTAINING A CANAL ZONE LICENSE TO DO BUSINESS
IN THE CANAL ZONE DOES NOT DO AWAY WITH NECESSITY FOR GOP TO
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REQUEST " WAIVER" OF 1936 TREATY RESTRICTIONS. IN FACT, GOP WOULD BE CORRECT IN HOLDING THAT GRANTING OF SUCH LICENSE, WITHOUT GOP APPROVAL, WOULD BE IN VIOLATION OF THE TREATY BECAUSE THE AEROMAR OPERATION DOES NOT COME WITHIN THE EXCEPTION OF "... HAVING A DIRECT RELATION TO THE OPERATION, MAINTENANCE, SANITATION OR PROTECTION OF THE CANAL, SUCH AS THOSE ENGAGED IN THE OPERATION OF CABLES, SHIPPING, OR DEALING IN OIL OR FUEL,...". THE LICENSE TAKES CARE OF INTERNAL PROBLEMS WITHIN THE CANAL ZONE OF HAVING SOMEONE UPON WHOM PROCESS MAY BE SERVED IF SUCH WERE NECESSARY.

4. PURPOSE OF PANAMA 1805 IS THAT THE TWO ACTIONS TAKEN TOGETHER-- THE LICENSE AND THE NOTE-- WOULD SERVE TO " LEGALIZE" AMEROMAR'S CONTINUED PRIVATE COMMERCIAL AIR OPERATIONS INTO OLD FRANCE FIELD, SOMETHING THE GOP HAS REFUESED TO DO.

5. COMMENT: GOVERNOR PARKER DOES NOT CONCUR IN INTERPRETATION OF PA-
RA 3 ABOVE RE APPLICABILITY OF 1936 TREATY BUT HE OFFERS NO OBJECTION TO EMBASSY EFFORTS TO ESTABLISH " DE FACTO" REQUEST FOR " WAIVER" FROM GOP. GOVERNOR BELIEVES THAT LICENSE MUST BE ISSUED IN COMPLIANCE
WITH CHAPTER 61 OF TITLE 2 OF CANAL ZONE
CODE REGARDLESS OF DEBATE.
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*** Current Handling Restrictions *** n/a

*** Current Classification *** CONFIDENTIAL

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